

**ICANN
Transcription ICANN Barcelona
GNSO Working Session: PDP 3.0 Part 2
Sunday, 21 October 2018 at 10:30 CEST**

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Rafik Dammak: Okay, I think it's a good time to start. I assume the record will also start. First I would like to welcome our guests from GDD. They come here to give an update to the GNSO Council regarding the implementation of several policy recommendations. And to just to go quickly I think first with me Christine I need to set the scene here...

Christine Willett: Thank you Rafik. Christine Willett here, ICANN Org standing in for Cyrus this morning, good morning all, thanks for having us and giving us this opportunity to give you an update on policy implementation activities. I'm simply going to quickly turn this over to Karen Lentz to kick us off.

Karen Lentz: Thank you Christine and good morning everyone. The first slide here is kind of an overview of all of the pulse implementation projects that we have in progress. This is a graphic that we have on our Policy Implementation page on the Web site but we've updated it just recently to move to the right a little bit. So there are basically four projects that we have in progress. They are, you know, in some cases within a few different, split up into different elements. But you'll see we've had some policy effective dates so far this year in 2018 and then we have other cases where we still are sort of working on estimates by quarter of how long we think certain things will take.

So the implementation projects are in the white space in the top there. The two pieces in the orange are PDP efforts that we are expecting to result in implementation recommendations within a year or so, one of those being the

curative rights PDP and also the expedited PDP on that temporary specification. And then we've also on the technical side tried to track the development of the Registration Data Access Protocol or RDAP because as we'll talk about it as a bearing on many of the policies that we are in the middle of working on. So we're going to talk about age of these projects individually and I'm going to turn it over to start with Dennis Chang who's going to talk about Thick Whois. Dennis?

Dennis Chang: Hello everyone. My name is Dennis Chang, ICANN staff. I act as the project manager for a couple of policy implementation projects so I'll talk about those. Thick Whois policy is one of the policy implementations. And the status on that is the - with implementation team has worked with the IRT and we've completed the policy language and published the policy on the icann.org as two consensus policies. So this one policy resulted in two consensus policies and they're named here. One is called Consistent Labeling and Display. The other one is Transition from Thin to Thick. The Consistent Labeling and Display the policy effective date is 1 August 2017 and that has completed. The transition one, the policy effective date is 1 May 2018 and 1 February 2019.

And what's happening there is that the board has directed a postponing of the contractual compliance enforcement of those two effective dates. And at this ICANN meeting we will look at those dates again and see what the new enforcement dates are or will be. So that's going to happen.

Next page. On the IGO INGO identifier this was a policy implementation for part of the policy that was within scope that we were directed to implement. And that policy again has been finalized the policy language, and published, published on let's see January of 2018. And then it was published as two effective days based on the requirement. One was the reserve name approach of protecting those names and the other one was claims noticed system.

The reserve name policy effective date was 1 August 2018 so that's completed implementation. The Claims Notice Protection Mechanism which applies to only the INGO names, that has yet to be completed. And our approach there is that we're working on a specification of the INGO claim system. And the effective date will be 12 months from the release of that specification. Those are the two I have for you.

Karen Lentz: Thank you Dennis. If we can go to the next slide. So this is Karen Lentz. I will cover the translation and transliteration implementation. This is being led by Brian Atkinson who's not at this meeting so I'll review this one briefly. These recommendations relate to the translation and transliteration of contact information. The recommendations don't require contracted parties to, registries and registrars to do any particular translation and transliteration of contact information but to state that if they're going to engage in translating or transliterating this information that it follows these recommendations as - or try to go about it.

So the policy is – we've drafted the policy language document in consultation with the IRT as well as had it reviewed by a linguistic expert because there is some reference to language tags and how they're used within the policy advice. So we've taken that I think as far as we can. The policy does anticipated RDAP being in place. And so there is a dependency there. The RDAP profile has closed public comment recently. And I understand they're discussing next steps here at this meeting. But our expectation is that once we have a RDAP profile we'll be able to finish and complete and publish this policy draft for public comment. And then I'll turn it over to (Amy Bivins) who will talk about privacy and proxy project.

(Amy Bivins): I'm (Amy Bivins) with staff and the privacy proxy IRT, you're probably pretty familiar with it. It was convened approximately two years ago. The IRT has reviewed all of the draft accreditation program materials and has discussed possible approaches to data privacy. We have a few unresolved issues, the biggest one being the approach to data privacy issues and the accreditation

program requirement. And at this stage we had considered potentially for seeing the public comment and marking data privacy issues as an open item. But we believe have recently determined that we should likely slow the pace of the project until the EPDP is complete to see how data privacy or relevant data privacy is used or addressed there before we proceed to public comment.

At this point between now and the EPDP is complete we'll continue working on other items that are open. We won't be meeting every week the way we are now but we'll be consulting with IRT as needed on the open items. And then we'll pick up the data privacy issues again after the EPDP is complete.

Karen Lentz: Thank you (Amy). So that takes us through all the projects and we're happy to take any questions or comments from the council. Thank you.

Rafik Dammak: Okay thanks Karen. So let's see if we have question from the Council. (Erika), yes please go ahead.

(Erika): Thank you so much Rafik. Can I see the last slide again, the one where you make the reference yes, this one unresolved items? So the data privacy issues what do you recommend to be pick up here again? I understand that the conclusion which might come out of the working group is maybe not touching on the items which relate to this topic but what otherwise so they may - you may have to do some translation issues, but otherwise what can or shall be done here?

Karen Lentz: I'm sorry I'm not sure I understood the question. Were you asking with respect to data privacy issues...

(Erika): You said it may have to be picked up again. That's what you said if I understood you correctly.

Karen Lentz: Yes so with respect to data privacy issues so what's happened up until now with the privacy proxy IRT is that we had proposed for discussion a potential data processing classification for the accreditation agreement. The IRT team member's feedback on that wasn't great so we know we're going to have to work on that. And that's one of the reasons why we're waiting for or we're proposing to wait until the EPDP is complete to see how those issues are addressed there as opposed to trying to sort them out with the IRT with the risk that they are resolved differently in the EPDP.

And with respect to after the EPDP, I think the question was what might we need to do with it after that? I - we may need to look at how privacy proxy fits into what comes out of the EPDP because privacy proxy may not be explicitly addressed in whatever comes out of the EPDP.

Rafik Dammak: Thanks (Amy). Susan and then (Nicola).

Susan Kawaguchi: So Susan Kawaguchi for the record. Obviously I'm very concerned that this is being put on hold and we've definitely seen a slow roll of this since last March which, you know, several of the BC members have and others have expressed concern on that. I am puzzled why we're waiting for the EPDP to resolve or to finish their work when the charter for the EPDP specifically does not fully address access. So there are other, you know, I mean ICANN has proposed a unified act or a uniform -- I always get those two words mixed up -- access model. And so that work seems to be plugging along, you know, outside of the EPG - EPDP. And I think there's other issues within the privacy and proxy that we could resolve and be ready for this process to be implemented prior to the EPDP finishing its work. You know, as sort of anecdotally what I'm seeing in the Whois is we're getting a, it looks like, you know, and this is my own personal viewpoint. I have not checked every registration for a registrar but it looks like some registrars have just flipped all their registrations to proxy so that when you instead of it being very clear that it's redacted because of GDPR, it's a proxy don't know, you know, what jurisdiction pertains to that registration at all. And so at the very least the

proxy, reveal process could tell you what jurisdiction you're dealing with because if you've got a proxy in Turkey is the registrant really in China, or are they in the US or are they in the EU?

So by allowing this masking with no ability to get that information except from, you know, some of the good players in the ecosystem then, you know, we're just pushing this down the, you know, past EPDP which I, you know, personally am not sure this is going to resolve everything. I think how this EPDP I think the issues we have with GDPR may be resolved outside of ICANN and so are we going to wait until that happens? I mean there right now the implementation is the GDPR is completely outside of ICANN? ICANN's control of that has been very limited.

So I would advocate and the BC advocates that this move along, that we're completely prepared and that we do not slow this down anymore. This is a policy that, you know, unfortunately what could happen now is we would get, ask for a reveal and find redacted information. If that is what happens that might be a result. But at least we'd have a process in place to remove the proxy masking and then we would deal with the GDPR on redaction. So I think we'd have a lot of work to do and that we should not stop working.

(Amy): Thanks for that. This is (Amy). And if you're able to send specific suggestions of items you think we should continue working on please do. That would be extremely helpful.

Michele Neylon: Thanks, Michele for the record. I don't take personal pleasure in disagreeing vehemently with everything that Susan just said, but I do. The Privacy Proxy Service Accreditation Policy Development Process and Working Group was highly contentious and it was all done and conducted prior to ICANN taking GDPR or other data protection issues seriously even though of course they have been flagged on multiple occasions in the past.

To proceed with the implementation of what is ultimately quite a flawed framework in light of GDPR would be a terrible idea, so slowing down or pausing implementation at this juncture is the right thing to do. And I have a - I'm fairly confident that my views on this would be supported by my fellow counselors from the Registrar Stakeholder Group. Also with respect to the commentary about issues involving proxy privacy without the - this accreditation there are stipulations within the 2013 contract which people can use whether or not the - they fall foul of GDPR or other issues is another matter entirely but it's to say that there's absolutely nothing there isn't really true. Thanks.

Paul McGrady: Thanks, Paul McGrady for the record. So I was on the PPSI Policy Team and I was involved in charter drafting for the EPDP. That's just by way of background. But I guess I don't get it and maybe you guys can explain it to me. If the privacy proxy is a service and it sits over whatever is in the Whois data right whether you turn it on or off has to do with a private service. If you turn it off and the underlying - the Whois data is compliant that's between the registrar and whoever is in charge of enforcing that in Europe. I don't see the connection right? You have a privacy proxy service and you have a means of turning it on or off. And what it reveals is completely up to how the registrar's expressing the Whois data to comply with GDPR or not to comply with GDPR. But those – what we seem to be conflating two very different things. So maybe I hate to ask this but could you start again and explain what the connection is and why we need to slow it down because I don't get it? Thanks.

(Amy): This is (Amy). Thank you for that question. And I will attempt to address it - or I wanted to answer the question in detail but I think we can in the future. But we're not trying to equate privacy proxy services and registrars. But the concern is that data privacy issue that may be addressed through the EPDP that will also be faced by privacy proxy services are similar.

So with respect to data processing provisions that we need to have in the accreditation agreement and things like that we think that's the area where we – the PB IRT could potentially benefit from the EPDP's work so we're not having requirements that are potentially different for registrars and privacy proxy services. And I can also - I can consult with the legal team if you'd like a further like further details about all of the items. But I know that that was the main one that we were faced with when we we're discussing status but we can get you more detail as well.

Paul McGrady: Thank you. But I think it's sort of the same answer which is, you know, you are looking at those issues for the registrar agreement right, and so the registrars will have certain obligations for the RAA right and presumably for RAs too that they will have some obligation under GDPR. But it seems like we're - what we're implying is that the privacy proxy service provider would have to be confident that the registrar was complying with GDPR before they turned off the privacy proxy service which, you know, assuming some distance between those two parties I guess I don't see the connection right?

So as a privacy proxy service provider I would provide a service that puts up information other than what's in the public Whois record. I'm paid to do that. If for some reason I need to turn it off or disclose what's in the underlying Whois record I'm only going to be able to disclose what's in the underlying Whois record. So if I'm the privacy proxy service provider and I get a note from somebody that wants to know what's in the underlying Whois record the only thing I can reveal is what the registrars put there. And so it may be redacted for privacy is what's put there right?

Michele Neylon: That's not how it works Paul.

Paul McGrady: What's that? So...

Michele Neylon: Sorry just interrupting because I think you're looking at that through the lens of (Com and Nast) where yes the registrar does control the output. We don't control the output for Thick registries.

Paul McGrady: So it's a registry question? I mean it doesn't matter...

Michele Neylon: No, no just makes sense but it's just it's not...

Paul McGrady: Okay.

((Crosstalk))

Michele Neylon: ...as simple as...

Paul McGrady: Okay how about I get a turn and then you can have a turn? That would be terrific.

Man: Okay.

Man: So...

Rafik Dammak: Sorry Paul don't want to interrupt but...

Paul McGrady: Yes.

Rafik Dammak: ...you have really just one or two minutes left.

Paul McGrady: Okay.

Rafik Dammak: And...

Paul McGrady: I mean I'll do my best to get my question out. I've been interrupted so I'd like to keep going if I'm allowed.

Rafik Dammak: Okay.

Paul McGrady: If I'm not allowed and you need to shut down my question that's fine but I would really like to get it out.

Rafik Dammak: Okay just because I want to say that also the question from...

Paul McGrady: Yes.

Rafik Dammak: ...Stephanie so...

Paul McGrady: Sure.

Rafik Dammak: ...please go ahead and...

Paul McGrady: So Thick or Thin there's underlying contracted party who's either complying or not with the GDPR right? And the privacy proxy service provider doesn't have any control over that. They either publish or reveal depending on the circumstances whatever the contracted parties put in the Whois record right? So again I just don't see the connection between the two. And so maybe we can follow-up with email exchanges because I'm not - I'm clearly not getting it but I'd like to understand the reasons behind this slowdown because it really - well what it seems to me is what we're saying is we can't figure what the privacy proxy service provider should be doing because we've got to figure out what the underlying contracted parties should be doing and again the connection isn't clear. Thanks.

Stephanie Perrin: Stephanie Perrin for the record. I have a brilliant suggestion for you Paul. If the IPC would quit pushing the UAM maybe the community would have the bandwidth to get on with the regular PDPs including this one. That's my idea of a joke. All kidding aside there are a number of policies that are going to

need a very serious review in the light of GDPR. This is one of them so I totally support slowing it down.

We have been, at least I have been rather skulking on this committee but we have great concerns that we're still going to need privacy proxy services at the end of the GDPR compliance activity. And they appear to be getting priced out of existence which is a deep concern for countries that will not have a GDPR compliant protection legislation which covers a lot of the developing world.

So, just putting that in there we - in my opinion ought to be having a look at counsel at some of the other policies that need to be subjected to do some kind of a (unintelligible) CM assessment to determine how out of sync they are with the GDPR. And we can't do that until the EPDP is finished because I certainly wouldn't be bold enough to predict where we're going. Thanks.

Rafik Dammak: Yes thanks Stephanie. So...

Woman: We (unintelligible).

Rafik Dammak: Okay. Yes (Skip) it seems you will be last in the queue.

(Skip): Thank you Rafik and thanks for the conversation. Not to get into the specifics of the PPSAI issue, I do want to just make sure everybody understands and this is in response to one of Susan's comments at the outset about the EPDP not focusing on access or an access model. The charter of the EPDP actually does provide for discussion and focus and delivery of a final report on an access model as it's their deliverable. The language in the charter says a third deliverable of the EPDP team shall be an initial report outlining a proposed model of a system for providing accredited access to nonpublic registration data followed by a final report following review of public comments.

So just to be clear I think there's a misconception or a misunderstanding the EPDP has a couple of different phases. One is focused on the temporary specification. That's what the group is working on now. When that's finished the group will then shift to focusing on discussion of an access model.
Thanks.

Christine Willett: Yes, thank you all for this opportunity, Christine Willett ICANN Org. We appreciate that this is not a straightforward issue and that there are diverse opinions within the GNSO and across the community and particularly privacy proxy is a sensitive subject. So I'll take this feedback. We'll see if we can get you some more clarity on the direction that we're taking it and putting this effort on hold or slowing down the effort. And thank you for the opportunity to present to you today.

Rafik Dammak: And thank you for coming and giving a bit hope to have much more time in future but thanks again and let's follow-up. Thank you. And it's over to Heather for the next flow.

Heather Forrest: Thank you. Thank you very much Rafik and thanks to our colleagues from GDD. The next session brings us to a discussion of the subsequent procedures and RPM PDPs. You might recall that our action item since the January 2018 strategic planning session was for these two PDPs and their respective liaisons to work together to identify, clarify, determine whether there were any dependencies between those two groups and how those dependencies might impact on timeline. So for this discussion we can have our SubPro and RPM PDP co-chairs join us at the table. We've already got Cheryl in the corner. Jeff's going to join Cheryl. We have Brian Beckham, we have Kathy Kleiman and we have Phil Corwin to join us at the table. And you folks have slides. Who would you like me to turn it over to?

((Crosstalk))

Heather Forrest: Jeff, Cheryl, can we turn it over to you to start?

Jeff Neuman: Sure.

Cheryl Langdon-Orr: Yes.

Jeff Neuman: Though this is the first time I'm seeing the slides too. So I will, I mean unless these are the exact same as presented on the other call but okay then I have seen them once.

Heather Forrest: (Unintelligible).

Jeff Neuman: All right either way is fine. So yes I think from a subsequent procedures perspective as you know we released our initial report. We had a comment period that ended in September, late September so it was approximately, it was pretty close to 2-1/2 months of common period, pretty extensive. We got 70 comments, very comprehensive and so we're in the process of forming subgroups to analyze those.

We're releasing a supplemental initial report hopefully the week after ICANN so next week. And that will, comment period will go into early December if I'm not - like the December 10 area. But our plan is still, we're still on our timeline that we presented probably about a year, year and a half ago that we envisioned being completed with a final report. And I'm sorry let me also add in Worktrack 5.

Worktrack 5 is going to hopefully release its initial report towards the middle to end of November. And but once they - thank you for the slides. so but what you'll see is that the plan is after the comment period for Worktrack 5 that will be mostly on the same timeline. And our goal is to get a final report to the council by the very beginning of Q3 2019. And so we're still on track to do that.

And one of the topics that we talked about yesterday in our sessions was really a request for – that we would like to take to the council ultimately which is that once we deliver our final report the normal process would be then to take that final report assuming the council adopts the final report then would send that report to the board. The board would do it's comment period and take another three to six months or whatever the board at the fastest could take to adopt that report.

Because there'll be a significant delay one of the items we brainstormed yesterday during a session was the potential of once we submit the final report to the council and the council adopts that final report is asking the council at that point in time to form an implementation review team to implement the subsequent procedures recommendations knowing that some of those may be subject to change or in theory if the board were not to adopt all of those.

But under the assumption that because the board's been involved both through the public comment period and through liaison activity they should be fully aware of what's coming down and so from our perspective we believe that once we deliver a final report from a council level that they would then hopefully adopt those. So I think the discussion went well yesterday. I think from the community members that were present subject to the understanding that there may be some issues that are not fully resolved at that point, things like RPMs or even IGO, INGO stuff -- whatever it is -- there may be a couple of issues that we don't believe are go no go kind of decisions for implementation of your team. In other words yes you might have to incorporate findings a little bit later on but we don't believe that they would hold up any kind of implementation of the new gTLD process again recognizing that implementing the new gTLD process is not a short activity. It's one that everyone recognizes will take some months.

So that will likely be a request from Cheryl and I as working group co-chairs of subsequent procedures and we know it's over six months early and kind of

giving you a heads up on that but hopefully that's something that the council could discuss, you know, after this meeting and during your face to face strategy session or whatever -- I might not be using the right term, but your session early next year as to the possibility of getting that kicked off. So that's the discussions we've had from a subsequent procedures standpoint. Good news is we're still on schedule that we've planned for a year, year and a half now.

Heather Forrest: Thanks Jeff. Why don't we hear from both PDPs and then, you know, I think we're here in this session to focus on the intersection between the two. So let's hear from each and then convert. So Kathy, Phil, Brian over to you.

Kathy Kleiman: So Kathy Kleiman. I'm one of the three co-chairs of the Rights Protection Mechanism PDP Working Group. Phil Corwin and Brian Beckham are the other two co-chairs. But since we last talked with you we've been engaged in extensive review of the Uniform Rapid Suspension, the URS. And we've reviewed every URS case through the end of 2017, worked in three URS data sub teams that looked very closely in great detail at provider issues. Those were providing the URS dispute services as well as the documents as well as practitioner questions. So we've been doing deep dives. And now we are preparing our initial reports section on the URS with detailed operational fixes and policy recommendations since we're both the review team and a PDP. We're kind of trying to fix what isn't working as well as trying to suggest what could be better. So our meetings here, our face to face meetings the last was rescheduled on the URS. We'll be reviewing both the sub team proposals as well as a number of individual proposals that came in from working group members that has to do with all sorts of things that could be changed in the URS. I don't know if either Phil or Brian would like to add but then I have some questions about what Jeff raised as well. So first we'll finish, we'll wrap up the RPM working group summary.

Phil Corwin: Phil Corwin for the record. All I want to add is that we as co-chairs have been very cognizant of the timeline and are continuing to strive to stick to it. We

added an extra session. We did two working group sessions last week to try to assure that we finish up the consideration of all individual proposals on the URS before we reached Barcelona and we'll continue to act in that manner. We can never guarantee what'll arise in the future that might cause delay but I think if it takes if we see any slippage we will take extraordinary steps to get back on the timeline. And we see no reason at this point in time why we would miss our current timeline of delivering an initial phase one report for public comment toward the end of the first quarter of next year and a final report in the third quarter of next year. Thank you.

Brian Beckham: Brian Beckham for the record. I'm not entirely sure what's expected of us in terms of our report here today but one thing I wanted to offer which we have discussed amongst the co-chairs is the idea that when we're looking at the RPM working group and I understand that there's a little bit of hesitation may be given how the IGO Curative Working Group played out in terms of coming to its recommendations. But one of the things that may be useful for the council and the SubPro working group to hear is that, you know, when we look into the crystal ball the question of, you know, the timeline I think can be answered in some degree by asking, you know, are we going to be creating entirely new RPMs or are we going to be recommending radical changes to existing RPMs?

For me I think the answer is a fairly clear no. You know, we do proposals to for example get rid of the URS. My personal view is that some of those proposals that I would characterize as somewhat more radical are unlikely to garner consensus in the working group. And so with that I think we can fairly reasonably conclude that phase one of the RPM working group is unlikely to come out with any radical new RPMs or changes to RPMs that would require significant implementation work.

And so I mentioned that to sort of suggest that if there - I understand there are sort of different understandings of what the contingencies are or are not between these two working groups. And so I mentioned that to suggest that

to the extent there are perceived contingencies it may be worth thinking about the likelihood of radical changes to existing RPMs or new RPMs that would require significant kind of implementation and onboarding work versus sort of smoothing off some of the rough edges to the RPMs that are already, you know, used today by new gTLD operators. Thanks.

Heather Forrest: Thanks Brian. So Kathy I know you said you had some questions. Donna you've got your flag up, well or would you rather take Kathy's questions first?

Donna Austin: (Unintelligible).

Heather Forrest: Okay. Donna's going to put her flag down. Kathy over to you with your question.

Kathy Kleiman: Terrific. Thank you Donna, Kathy Kleiman. So Jeff we had a meeting of leadership of the RPMs, SubPro and council. And it was our understanding Jeff would provide us with something in writing about the implementation plan that he was suggesting. We didn't get that. I understand the rush to Barcelona and we all have a lot of things going on.

But I wanted to reflect on some of the concerns I heard raised yesterday in the Sub Pro Working Group meeting which I attended. The concerns were raised across multiple stakeholder groups. And they had to do with questions about the cost of having an early Implementation Review Team, the task of categorizing what's a noncontroversial issue how easy is that to classify? Recruiting, if you recruit early do you miss certain people who would join later? I don't want to mischaracterize. I know there were people who were very eloquent who were here and I hope they'll share.

But if you recruit early for an Implementation Review Team months before it's actually kind of passed by the board and on the agenda, you know, will volunteers know to come in? Will they be identified? Will they participate? So a number of interesting concerns were raised both from a procedural factor,

human factor so this is all new for consideration. So I would urge you to think carefully about this. I don't think we've ever leapfrogged the process like this and created Implementation Review Team before both the final report is passed by the board and also before the dependencies come in like the RPMs. Thanks.

Heather Forrest: Thanks Kathy. So Donna and then Jeff.

Donna Austin: Thanks Heather, Donna Austin. So I might just clarify a little bit here why we're here. And Kathy to your point about the call that we had last week and there was a suggestion made by me that if Jeff could share his plan with this group ahead of time that would be great but I think there was a misunderstanding certainly on my part about what Jeff was talking about at that point in time. And I don't know that it was particularly relevant to the genesis of this discussion which I think started in Puerto Rico.

And a question or because at that point in time the timelines on these two PDPs were there was a big gap. And it looked like the RPMs would finish some six months or so after Sub Pro and that could potentially create some problems because there was a perceived or real dependency issue because as a, within the charter there is actually a link that's (unintelligible) within the charters.

Where we are now is that the timelines are lining up reasonably. So we may not have that problem that we had, you know, back in Puerto Rico. I'm not sure that it's fair to ask the question that you asked of Jeff just now because I think, you know, what Jeff and Cheryl did yesterday was a first cut of introducing...

Woman: (Unintelligible).

Donna Austin: ...yes something to the community. So, you know, and I don't want to speak for Jeff if he wants to respond to those questions, that's reasonable. That is

his call. But I just wanted to make the point that just to try to bring us back to how we got to this point and what we're supposed to be discussing here and that, you know, I chaired that call and I had misunderstood what Jeff was talking about at that time. So I apologize to this group for any misunderstanding that there was on that call.

I had some challenges. I couldn't see Adobe and I couldn't see has raised so we had some challenges around. So I just wanted to kind of clear the slate if I could to level set where we are and why we're here. Thanks Heather.

Heather Forrest: Thanks Donna. Jeff I'm going to turn to you and Jeff can you also note (Keith)'s question to you in the Adobe chat as part of your intervention? We can – I can read it out to you. So if you – let's do your response first and then I'm happy to read that one out.

Jeff Neuman: Okay thank you. And I think - this is Jeff Neuman. I think Donna answered the part on the plan. I think, you know, while as Donna said this is something actually we've been talking about in terms of how to move forward with implementation for a year now. And, you know, as far as I think I did a first yesterday which is have a public session on an idea of starting an Implementation Review Team and got some really good feedback. And I think that's probably the first time in history it's ever been done. So I think rather than put down what happened yesterday I think it's probably really a good thing to just get everything out in the open six months even before that kind of decision needs to be taken. I do want to kind of address something and I wasn't going to mention it but I think I kind of need to on timelines. And I'll just come out and say it.

So if you look at the Sub Pro Work we released our initial report in July 2018. Granted it's fairly comprehensive, lots of topics but we had a, what almost 90 day public, period and we have to keep extending it because of summer and because of other things coming up and frankly it was a long report. But if you

look at the distance between the release of the initial report all the way to when our final report is, it's pretty close to a year right?

Now I think from a logistics perspective you really need to look at the rights protection mechanisms and what's being proposed there. And this is not in any way criticism of the chairs at all because it's outside of their control or anyone's. But when you do a public comment period and certainly over the years I've noticed this, the comment period by definition or by the operating guidelines has to be a 40 day period, at least 42 days not to mention, you know, you have intervening ICANN meetings and, you know, the GAC and others always ask for an extension so you pretty much have to count on 60 days just from a logistics perspective.

After the 60 days you then need to have ICANN staff to help you compile the comments which at a best case scenario is a week but most likely it's probably about two weeks to be fair to ICANN staff. So now you're 60 plus two weeks so about just to estimate easy 75 days. That's just for the group to get the comments and to start looking at them.

Now to be realistic for our group looking at comments you have to give a group at least a couple months to look at the comments to be able to analyze them and then figure out what are final recommendations. So you're talking about another 60 days at the earliest. So now you're 75 plus 60, 135 days. That's when the group's done analyzing it.

Now as a group you have to take consensus calls, you have to develop recommendations and then write a final report. Let's just assume that you can do that within another 30 days. Again that's really, really quick right? So now you're at 75 plus 30, you're at 105 days. That's, you know, that's about yes, that's about 1/3 of the year. So now look at the, you know, that's like at the very earliest that - I'm sorry I've missed a time period in there. Sorry 75 plus the group to consider was 60. I missed that 135 plus the time period of another month to put together is actually 165 days.

Hundred sixty-five days is approximately five, six months right? Look at the time period that's in there, it's about only three months. Now I'm talking the soonest just from a pure logistics standpoint. So I know this slide was put together and again it is – this is not in any way a reflection on the chairs at all and I don't mean it should not sound that way. It's just realistic of timelines. It's something I had to come to grips with too when we were doing SubPro planning way back when.

So I do think Donna the timelines are pretty far apart just because they have to be. So the reality is the council's going to be or likely to be in a position where it's going to have the subsequent procedures recommendations at a time period prior to the RPMs and it's going to be faced with a decision at that point as to whether to first send those to the board without the RPMs and second to talk about implementation without the RPMs but at a later point.

And I think what Brian was saying which I agree with is you can constitute an IRT, make sure the IRT carves off the RPM issues until such time that those recommendations are ready to be considered by the IRT and still not affect implementation and the timelines going forward because as Brian and others have said the sub, the RPM work may not be likely to result in drastic changes. And even if they did most of those changes are further down the line for to be considered. So at the end of the day I think we're still good but the council is going to have to face these – the reality of likely getting these recommendations at different points in time. Thanks.

Heather Forrest: Thanks Jeff. So I have (Keith) in the queue and then I've got Paul's hand up in Adobe. No, Paul's put his hand down so then Phil after (Keith).

(Keith): Okay thanks Heather and thanks Jeff and to all of you for being here to discuss this. So I mean I've heard us discuss two different issues today. One is timelines and dependencies okay? So it's a question of, you know, what

happens if one group finishes before the other and what are the dependencies? And I think that's an important discussion to have.

The other that Jeff raised is the possibility of beginning an implementation team prior to the finalization of the policy and a final report. And so that's a whole other issue. And I want to make sure that we're not conflating the two.

But as it relates to timelines Jeff my question in Adobe which you may not be able to see was related to the double asterisk that you see on the screen where it says that the SubPro completion date assumes no additional public comment period. And I was just hoping that you could expand on that a little bit because in my recollection of the discussions of the group because there was not a full consensus call of the working group on the initial report that there was a recognition that if there's a discrepancy or lack of consensus or, you know, sort of a clear division of opinion in the public comments received that there could be the need for a subsequent comment period on that subset of issues. So I guess what I'm asking is, you know, if you could expand on that point a little bit as it relates to the timeline because what you're suggesting is the RPM group could be perhaps delayed three months. If there's a requirement for a subsequent or a second comment period on the subset of outstanding issues once you receive the public feedback that, that could actually just be the extra three months for example. So what my point is there I think are I think are a number of variables here for both groups that could impact the timelines. So I was just hoping if you could, you know, clarify that a little bit. Thanks.

Jeff Neuman: Yes so again thanks Keith. It's oh I'm sorry Heather should I answer that? I just jumped in. I'm sorry. So thanks Keith. It's Jeff Neuman. Yes so again this is not my slide so the asterisk, there is one additional public comment period that's is going to start with the supplemental report but I don't think that, that was what it meant. So but I'll take your question too. So that timeline does include the supplemental comment period just to get out there.

But you're right I mean absolutely there in theory right again this is all theoretical in theory there may be some radical suggestions that have not been able to be discussed by the group or through the public comments. You know, we haven't reviewed the comments yet so it's theoretical. I've looked at a bunch of the comments. I haven't seen anything that that's radical yet but again it's we're still early.

Certainly if a public comment becomes necessary then I'm not necessarily convinced that, that would necessarily extend the timeframe. It may or may not because this would be an additional public comment period. There doesn't necessarily have to go out for the, you know, for a full 60 days or whatever or 40. You know, it could be shorter. So there are other variables.

But I think from a planning perspective we have to make the assumption that everything goes as planned and so that six months down the line the council is ready to make a decision at that point if everything falls into place. So my comments on the RPM timeline are definite, like you can't have one quarter in between the release of an initial report and a delivery of a final report. It just logistically cannot be done.

But you're absolutely right, ours could in theory change. But again if we don't plan now for something that's going to happen in six months and that does happen the way that we plan it and frankly the timelines have been for us, our group pretty spot on for a year and a half now. We've got to plan for that because I would hate for us as a community to have delivered for what we said on time and the community's happy and the only one not ready to go is the council or, you know, that everyone else is ready to go. So I take your question. We'll absolutely update the council if anything changes but certainly something we need to consider. Thanks.

Heather Forrest: Thanks Jeff. I have Phil and then Michele.

Phil Corwin: Thank you, Phil Corwin for the record. A couple of quick points. One there has never been a great many dependencies between these two working groups other than the fact that they're both related to review of the new TLD program. The only RPM that where we've heard complaints from the trademark sector that where the solution might fall within the other working groups bailiwick that is likely to be addressed is in the fact that some trademark owners say that the sunrise registration option is in fact negated by the pricing when they get to a new TLD and see that a, that their mark has been designated as a premium term. That's a pricing issue. We don't see any possibility that's going to be addressed.

Second whatever we do on RPMs is not going to delay the opening of the second round. And applicants in the second round would have to say yes we'll abide by the RPMs if there as they now exist or may be altered but they really don't administer them. They're administered by third party dispute resolution providers. They have to – it effects the sunrise, what happens at the opening which is way after the applications come in and what happens with the URS after the TLD begins to be populated with domains. So no great contingency, no potential delaying effect.

So far as a long delay between the initial report and the final report I don't want to discount what Jeff said but in our working group we took an approach based on the fact that while we have 115 members of the working group only 30 to 40 are really active. And we don't these – this is the first review of the RPMs. We don't believe that all wisdom resides within the working group. So we set a very low bar for putting something out for comment in the initial report, a mere demonstration of adequate support. We weren't going to set a consensus level to get entered in the initial report. That's way too high and anything in-between would have subjective proposals to extend it and perhaps divisive debate even with the low bar we said we just had staff promulgate their estimate of which individual proposals had received adequate support which was most of them and which had received only limited support which was a minority.

And we're getting rather heated exchanges on from members saying you're wrong about this or that. So I think in the end the sub team proposals which are mostly procedural in nature do seem are likely to receive consensus. I've been on the record with the working group several times urging people to be realistic, the things that went wildly in one direction or the other were unlikely to get consensus.

And I think after we see the public comments on the initial report it's going to be demonstrated. I believe that most of the individual proposals do not have consensus within the working group or within the community. And my attitude is going to be to tell working group members look, you know, you – we put it out there, you got comment, 40% of the community loves it, 40% hates it and 20% thinks it's a phase two issue and shouldn't be even be addressed right now. And unless you're willing to make very significant changes we're really – there's no reason for us to take a lot of time to further discuss that particular proposal because it has no hope of gaining consensus in its present form. So we'll see if that works out but I don't think that that's the way it works. I don't think the time between the initial report and the final report will be as extended as Jeff believes it will be but perhaps I'm wrong, perhaps he's right. We'll see how it goes but that's how we're going into the process at this point. Thank you.

Heather Forrest: Thanks Phil. I know Jeff wants to respond. We have Michele and Susan in the queue. Susan we're going to close – oh and Brian okay. Brian we need to close the queue there. We're already over time. We need to wind up in ten minutes. Jeff if I can ask you to focus on two things. I know you want I suspect you want to comment on the timeline point also really on the dependency point. So one of the fundamental aspects of the discussion we have here as Phil has said there are no dependencies coming out of RPMs for SubPro to complete its work. If you can comment explicitly on that, that would be super helpful to council. Thanks.

Jeff Neuman: Yes thanks Heather. And that was the basic point of my comment. So at the end of the day as Phil said there really there aren't many if at all any dependencies on the implementation. And so at the end of the day regardless of whether it's 90 days, 165 days, whatever it is, it doesn't matter. There is at least a belief or a (unintelligible) more than likely possibility that the reports will not be delivered simultaneously or near each other. And that being the case the council should prepare for the good possibility that it's going to be out of sync. And so my proposal, and I'm sorry our proposal Cheryl and I are, you know, that the council should start preparing for that and that because as Phil said the lack of dependencies you can forward one without the other.

On Phil's point on just quickly on the timeline again here I would love to know how it could be shortened. But again just numbers 60 day public comment period, maybe you can do 50 days. I don't know, 15 days for ICANN staff to compile. We can't really force them to go quicker. It's not fair on them so that's 75 plus 60 days to analyze comments.

If you can analyze comments with a full working group in less than two months, cool. Maybe you can, maybe I don't know, maybe you can. Maybe that could be shortened to 45 days. And then if you can do a consensus calls on every recommendation and then draft a final report in 30 days from that standpoint then again but I think you need to look at the numbers. Instead of looking at a chart like this and instead of just kind of estimating based on feel just put the numbers down in a work plan. I know that (Steve), and (Emily) and (Julie) we do this all the time. We try to figure out, you know, realistic timelines and actual. That's what you need to do. Again this is not in any way a reflection of the group, the chairs or anything like that. Just please do a proper planning exercise, thank you.

Heather Forrest: Thanks Jeff. Michele?

Michele Neylon: Thanks, Michele for the record. Just two things when - well three I suppose really. Jeff seems to be pushing kind of a sense of urgency with this which I'm

finding kind of hard to understand. I can understand as part of our PDP 3.0 discussions and elsewhere that we want policy development work to be efficient and all that. But I gathered a sense of this - of trying to accelerate this which I'm having difficulty wrapping my head around. I tend to agree with Phil Corwin's comments about trying to couple these two PDPs together as if they were inexorably linked isn't really a reflection of reality in that if you have RPMs that are accepted and this time around that actually be through a consensus policy process as opposed to some kind of weird sideways top down (unintelligible) will do something to shut the backup type situation that's obviously a better outcome in the long run but they'd be binding on contracted parties anyway. So I don't see why the two have to be kind of that closely linked. I just don't see that.

Pushing for the - for an IRT before you've actually finished your work is just plain odd. And more importantly there are budget implications to that so I'm not sure exactly how you can accelerate for pushing for an IRT or anything like that in advance. And again I still don't understand the urgency. I really don't. Thanks.

Heather Forrest: Jeff and then Brian. All right Susan you put your flag down. Okay so Jeff, then Brian.

Jeff Neuman: And I'll make it really brief, Jeff Neuman. We're not pushing for an IRT before we complete or we finish. I think that's taken a little out of context. I guess what I was asking for is an IRT after the GNSO council delivers the final report to the board. So it's before the board puts its approval on it but not before any of the policy work or anything else is done. And that is allowed for by the way in the operating procedures. I'm not trying to - it's not - I'm not trying to create a sense of urgency. I'm just pushing because I know that I've been on the council several times that I know that even discussing, chartering -- all that other stuff takes several months for the council to do. So I'm just trying to I know in January you're going to have a strategic planning session. I'm just trying to make sure it's on your schedule, make sure you're thinking

about it, make sure that and offer our assistance, sorry Cheryl, offer our assistance to help you in any way that we can.

Cheryl Langdon-Orr: (Unintelligible) explain briefly. I think the other thing that's important Michele – it's Cheryl Langdon-Orr for the record -- is that there's a degree of preplanning which is absolutely reasonable and expected even in advance of an IRT in any way shape or form. And that is something that is already being looked at. Training is, you know, keeping a very close eye on what we're doing and what may or may not make sense to simply preload, non-contentious things that are going to have to be, you know, basically look towards. Yes there are budget implications but as soon as any budget implications come into play that would be obviously that's a go, no go. That's a gating issue. You wouldn't go down even if it was a formed IRT and doesn't have to be. There was other models suggested in our just socializing the concept yesterday. This is not a formed presentation. It was, you know, a conversation we were having yesterday. And then there was some, there are these, some other collaboration opportunities where some prior planning, some preplanning can go ahead to just smooth the process when you want to have the board say yes it's done.

No sense of urgency. I know Jeff gets excited but that's okay. It's also we don't want to be here for years down the track. As it is we're going to be here three years down the track.

Michele Neylon: And my answer to that will be so.

Brian Beckham: Very briefly, Brian Beckham for the record. I think largely what just to kind of pull together just concern and Phil's reaction to a large degree I think you could say that a lot of the groundwork is already being laid in the discussions the RPM working group is having now both in looking at the substance of the proposals that are on the table and pulling together the initial report that are laying the groundwork for the final report. So I hear what Jeff is saying but I also think what Phil has said is that, you know, in other words we're not going

to be kind of reinventing the wheel to create a final report. But what I wanted to mainly say was one of the reasons we're in this situation in the first place is that the work for this RPM working group got off to a poor start I would say. We were given a grab bag of questions from the community that were never refined when the group kicked off that the question of whether it's refined these questions for purposes of initiating the charter was raised on several occasions and has been raised even as recently as I think it was the Puerto Rico meeting there was a proposal by a working group member to kind of take stock of where we are and rethink whether we should, our approach of Phase 1 which is looking at the new gTLD RPMs in Phase 2 which is the UDRP and whether the URS and UDRP should be looked at together.

So what I wanted to get in front of council is it probably is worth a real rethink as to whether the approach that we've used to date for Phase 1 of the working group is going to work for Phase 2. And I would say there's simply too much at stake with the UDRP which has been operating now for almost 20 years to leave it to the kind of random grab bag of questions that were thrown at us. They caused a lot of consternation for a sub team that was tasked with pulling together a survey related to the trademark clearinghouse.

When I came on board as co-chair it was one of the first questions I asked. And I was told well look it's very imperfect. We acknowledge that but we – we are just doing our best with what we have. So, you know, I think it's worth us thinking about whether it's worth kind of reassessing the charter that we're using for this working group when it comes to Phase 2. Thank you.

Heather Forrest: Thanks Brian, thanks Kathy, Phil, Cheryl, Jeff very much for this. So in view of our action item I think there are two things that I've heard very clearly from the discussion. One is that we do not have dependencies arising from RPMs that would slow down SubPros work that would impact SubPros timeline. That seems to be useful. Cheryl is nodding yes.

And number two is that council would be advised to bear in mind these projected timelines as we move into planning resources for 2019 bearing in mind that these are proposed timelines and may not be cast in stone. So that nevertheless is helpful for, you know, even what we see here as early 2019 for these things, makes very good sense that we think about this for next year's financial planning.

Happy good? All right excellent. Thank you very much folks. We shift right into our preparation for motions. We are now 15 minutes late for that discussion actually more than that late for that discussion, 26 minutes late.

((Crosstalk))

Heather Forrest: What will happen is we have this opportunity to talk motions. We'll also be together on Tuesday evening for our traditional night before council discussion of motions as we have so many on the table. It's likely that today's discussion will bleed into that discussion. Let's run ourselves through the various motions that you see here on the screen and discuss those. If there's anything that we need to get in terms of information to inform ourselves for a vote now is an opportunity to identify that.

The first motion that you see on the screen submitted by Stephanie as GNSO Council liaison to RDS is a motion to terminate the RDS PDP. This recommendation of termination was developed by the PDP Working Group Leadership. I will say that council leadership has been working closely behind the scenes with RDS PDP leadership asking them if they need any support and broadly speaking plotting the next steps of RDS very much reliant upon and dependent upon the advice of the RDS PDP leadership.

Donna, Rafik and I reviewed it. We should rely on the expertise that comes from within the PDP rather than impose our own view of the world. So I was very pleased to see that the RDS PDP leadership had come to this view themselves in making this recommendation. Of course it's a pretty big step

for the council to terminate a PDP. Stephanie any comments that you want to offer here or maybe I open the floor for questions? Well take opening remarks Stephanie and then...

Stephanie Perrin: Thanks. Stephanie Perrin for the record. Well I have been mournfully remarking that it's somewhat ironic that my - one of my last acts as a counselor will be to kill off the RDS PDP. However that's the way the cookie crumbles I guess. I must say I was a little mournful about it because we did a lot of good work despite all of the complaints we all have of it. I think that the structure with the four co-chairs worked and it's just dealing with the cacophony that seems to be the way the PDPs are heading today that was the real struggle. However kill it off, we recommend. So hopefully whatever comes at the end of the EPDP will be better constructed and work better. And I do encourage us to do a more thorough postmortem on the RDS and probably on EPDP. We will have learned some more things that we can sort of move ahead with a better PDP 3.0 for the next incarnation. So that's enough for me.

Heather Forrest: Thanks Stephanie very much. Any questions here? To Stephanie's point one of the things that we asked RDS PDP leadership to do was to reflect upon PDP and develop a - or document any lessons learned along the way that we thought might be useful as this effort continues. We will RDS PDP leadership very kindly put that together. We will post that to the council list and share that with you all for the next version of this. Mr. Bladel, welcome back.

James Bladel: Hi, good morning. Thanks. Is this okay to ask a question? Okay so James Bladel for the record. And a question because this was kind of a unique animal and this PDP was board initiated and I just want to ensure that the council and the RDS PDP leadership group has at least made the board aware or are consulting with the board on this decision to terminate. And how that all works does that work this is a first I think killing a PDP before it's completed its work is uncharted territory as was the creation of this PDP. So I just want to make sure that we're setting the appropriate precedent.

Marika Konings: Thanks James. This is Marika. I think and I was taking advantage of face to face meeting of the EPDP team. I think Marc Anderson did give a heads up to Chris Disspain already about this. I think he was talking as a kind of an informal liaison as he is the chair of the board working group on this. So at least it shouldn't come as a surprise from that perspective but again I think it's like here as well as a formal communication that would need to go out. And I think we also discussed in the planning call for the meeting with the board that may also be good to give a heads up there that this is on the agenda for Wednesday and, you know, if there are any concerns that would be the opportunity for the board to express those.

James Bladel: Thank you.

Heather Forrest: Thanks James. Any other comments, questions, concerns? No? All right, excellent. Let's then scroll to the next motion on our agenda which is the motion to adopt the charter for the SCBO. This motion was submitted by (Aiden) as the chair of the SCBO. This motion follows a round of input that was solicited from the SGs and Cs. That input was taken into account in the report that we discussed in the last council meeting which would have been the September Council meeting.

You'll see a link here to the charter. Are there any comments, questions, concerns? So I know we need a seconder for this motion. Any comments, questions, concerns? (Aiden) anything you wish to say? Fairly straightforward here I think yes, okay.

I think my - Rafik okay. I think my question (Aiden) here is just to make sure that we in light of the scary spreadsheet and in light of how much work we have on our plate that we not take this lightly. And I'm not directing this at you. It's just council really. We not take it lightly the creation of a standing committee, a permanent basis standing committee.

This will divert resources away from policy development. That's just simple reality. I think the comments that were received from the SGs and Cs suggests this is good work and it needs to be done. We need to be very careful that the scope is tailored to council's precise remit and not step on the toes of SG and C submissions and so on. So long as we bear that in mind I think it's a good thing yes? Thoughts here? All right.

Good excellent. All right let's move to the next motion which is the reappointment of yields as council liaison to the GAC, a motion submitted by Donna within the leadership team. Donna has taken the lead on supporting (Julf) in that role, seconded by Michele, thank you. The leadership team met with (Julf) prior to ICANN 63. Has had some discussions over the past weeks to determine whether (Julf) was willing to continue in the role. (Julf) is nodding his head yes. We have not scared him off.

And to reflect upon the role (Julf)'s experience in it. And we did ask that (Julf) submit a report to the council list which he has done for everyone to review and we encourage you to have a look at that. I - you will note that this agenda sits on our consent agenda. To the extent that anyone wishes to discuss it we can pull it out of the consent agenda. But we'll open the floor now to the extent that we don't have terribly many questions it's likely to mean we're in good shape here. Michele?

Michele Neylon: I'm losing my voice already and it's only whatever day of the week it is, Sunday. Thanks Michele for the record. I mean just very, very, very, very briefly I think it's very important for us within the GNSO Council to have that link with the GAC. Anything that can improve the GAC's understanding of how the Internet works - I mean sorry how the GNSO works is welcome. And I think we should be thankful that (Julf) was willing to step up once and that he would sacrifice himself yet again is very nice. And thank you.

Heather Forrest: Thanks Michele. (Julf) looks like affirmation all around. Excellent. All right let's shift to the next motion please. So this is the motion for council's adoption of

the final report of the IGO, INGO access securative rights PDP working group final report. This final report was brought to council in July 2018. It was on our action items list coming out of LA, coming out of the strategic planning session. And we encourage this group to wind up this work by midyear which it was successful at doing.

This PDP of course was the subject of and the recommendations coming out of this PDP were the subject of the Webinar that we most recently had prior to the start of ICANN 63. There are a number of recommendations that come out of this PDP final report with varying levels of support from within PDP working group. Do we have any questions around this motion? Sure. Paul has asked can we see the recommendations. Could I ask staff to close out for us? And I believe in the document that we had there was also an indication of the consensus level for each one. We're working on that Paul.

Susan would it be helpful - your flag is up. Would you like to do your intervention while then we come back to the recommendations? Yes.

Susan Kawaguchi: Yes I just wanted to urge all the counselors to really give this some thought. I think we're again - I've been saying this a lot, we've never done this before. You know, this is the year for that. You know, we haven't had an EPDP before, we haven't had a board, you know, close down a board PDP, the RDS before. And now it looks like we have challenges with these recommendations.

We really worked hard. Heather did a great job of leading us through the 3.7 complaint and then working with - I learned all kinds of new things about being a liaison and so which, you know, it is our role to manage these. So these - most of the recommendations you're going to see here are fairly understandable, let's put it that way and may be fine. I'm really having a hard time with Recommendation 5 from a BC perspective. And so I would advise really taking a look at Recommendation 5 and deciding if that is something that the GNSO should endorse and put the rubber stamp on.

I know that well I don't know this so but this is a question, you know, has the GNSO Council ever rejected recommendations from a PDP? I don't think so. But as managers of PDP process I think we do have a large responsibility to really look at this and say this is - this makes sense. This is an outcome that's good and yes we should, you know, endorse this or know we need to figure out what we can endorse and what we can give that stamp of approval to. And if we can't for all of the recommendations can we maybe treat Recommendation 5 differently? I don't know what that is. Part of me is really hesitant in telling community driven policymaking no, we don't - the GNSO Council thinks you didn't get this quite right. But I do think that's respond - our responsibility to make that hard assessment and decision. So I would really urge everybody to look at this.

Heather Forrest: Thanks Susan. Before I come to Donna, Susan can you help us with you say you're uncomfortable with Recommendation 5? Why? Why in particular are you uncomfortable with Recommendation 5?

Susan Kawaguchi: So in my understanding if Recommendation 5 is implemented a UDRP is filed, the decision is made, the registrant has his opportunity to go to court. It's the way it is right now. If the NGO has immunity and somebody please, if I get this wrong because I get INGOs and IGOs wrong all the time too, if they have immunity right now then that registrar truly has no day in court. So and I, you know, having filed a lot of UDPR RP's -- can't say it now -- you know, in my work, in my day job, you know, we have faced some challenges where the registrant has exercised that right in court. That's very important. But we have sort of a competing laws or treaties that, you know, governments have agreed on immunity for NGOs.

And so basically what happens now is that registrant doesn't have a day in court. This recommendation would then if the registrant goes to court to oppose it then that would over - and does not have the opportunity to have his day in court the UDRP is overturned and the decision is null. And if the,

you know, so therefore the registrant wins on every occasion. It seems like that's not what all of the previous, you know, either policies, or procedures or treaties we're trying to put in place here. And are we circumventing that when we shouldn't be or maybe we should?

Heather Forrest: Thanks Susan, that's helpful. Donna?

Donna Austin: Thanks Susan, Donna Austin. So this has consensus against a recommendation. So on what basis was that reached within the working group? I know we have the (unintelligible) statements from Heather and Phil but this has consensus marked against it. So I guess that's what I struggle with. You know, what was the discussion or what was the process that led to and I think getting to that point for this recommendation?

Susan Kawaguchi: Consensus level here we're talking about? Okay, Susan again for the record. By the time we came to these recommendations we had very few people working within the group. So you did not have - you did have people weighing in on consensus but it seemed to be those that held out in a four year PDP were usually from a similar part of our community. And so it wasn't a representation of broad interest for the community in life. That's my take on it. So even though there is consensus, you know, that was from a very small bubble group in that PDP.

But that's the case for all five recommendations. So we're singling this one out on the basis that it's from a small part of the community. I mean I guess what I'm struggling with is the argument can't be that we didn't have enough participants in this working group. At the end of the day if we pass full recommendations and set one aside I don't think we can use that argument. Well that's my personal view. I don't know if it's a stakeholder group view. We need to have that conversation.

But that's my concern is that, you know, we accept it for full but we don't accept it for this one in particular. So I'm happy to find a rationale, you know, that could lead us to that position, but that one doesn't quite hold.

Susan Kawaguchi: So if I may respond. So I'm not sure that that is the point I was trying to make so sorry for the confusion. I think we did have consensus. I mean we went through. I listened to people in person at Puerto Rico discuss this. You know, individual meetings which was not usual part of the process.

I don't think it's a consensus issue on this. I do think that the first four recommendations are not going to be problematic for the GNSO and for, you know, the UDRP process. I think the Recommendation 5 -- and this is my personal opinion -- and so that's why I started this out with please everyone really take a look at this because Recommendation 5 five would result in an outcome that I don't think personally should occur.

So I mean it changes to many things. We're going to review the UDRP anyway in RPMs. You know, I don't want to pass the buck. I don't know what the answer is but I think the GNSO Council has a duty to really look at this because this is not oh, great they did their job let's move on.

Donna Austin: Okay. Thanks Susan, Donna Austin. So I understand that there was a discussion about, you know, this issue being moved across to the RPM PDP working group and I - my recollection is right that the EPDP working group wasn't -- it didn't support that happening but I think we're also aware that it is starting to be discussed within the RPM PDP working group is that correct Paul?

Paul McGrady: Can I - almost need to jump ahead to my comment to answer that question which is in essence this is a revision to the UDRP? The only PDP that we've impaneled that has the ability to, you know, suggest policy changes to the UDRP is Phase 2 of the PRMs right? So in essence this is something that they could look at in Phase 2. I don't know that they're looking at it right now.

But it could be properly there and we could tell them that they have to look at it rather than having this group which was not impaneled to make changes to the UDRP make a change. Thanks.

Donna Austin: So is that potentially something that we could look at to set aside Recommendation 5 and ask that it be perhaps rightly considered in another PDP? Is that something we could explore?

Heather Forrest: Thanks Donna. So I understand the questioning that's just taken place really to be can we find a valid basis for carving out this Recommendation 5? And I as I understand it the fact that this overlaps with work that has not even yet begun in the RPM PDP but is nevertheless very clearly within the scope of that Phase 2 of the RPM PDP. So even a question of it could be in scope as I understand it, it is in scope. It is a written branch review of the UDRP that's happening in Phase 2.

With that in mind it makes me nervous that we as Paul has pointed out and I think it's a valid point, it makes me nervous that we have a group that was not chartered to develop changes to the UDRP put forward a recommendation that changes the UDRP when we have a separate group that is chartered to review the UDRP. And that group will not come to its decision-making on that it hasn't even started it yet never mind come to decision-making on that point. So that to me as a bit of a procedural concern for the council.

Is it the case let's say Susan bearing in mind your concerns about Recommendation 5 and I pushed you for precision on why you're comfortable with Recommendation 5 as I read through and just want to make sure that I fully understand Recommendations 1 through 4 they seem to me to align much more clearly with the charter for the IGO, INGO curative rights PDP, that this is what we directed that group to do specifically, and we pointed this out in the Webinar were they or should a new rights protection mechanism be developed?

They've answered no and should there be - well one of the consequences of that essentially? So as I understand it that's within the context of the charter of this group. But Recommendation 5 has a difficult overlap and rubs up against another charter. Does that make sense everyone? What I would like us to do given that that raises a pretty significant procedural issue is take that back to our respective SGs and Cs so that that can inform our consideration on this.

Bear in mind that we have Tuesday evening again to come together on this. This is the one motion that we've had some discussion around. And Susan has raised some pretty important issues here. Let's then prioritize this one, come back to this one first thing on Tuesday evening to make sure that we have an opportunity to discuss it.

It's 12-12, our board colleagues are joining us. Can we scroll back on the AC room to - we're having lunch with the board at 12:15. I might still one minute just to capture for all of our attention the remaining motions on the agenda. We won't have time to substantively discuss them here. So what I suggest we do is pick up from IGO, INGO curative rights when we meet together on Tuesday evening.

The motion here on PDP 3.0 will effectively put before the council the report that we discussed this morning. I would like to volunteer to second that motion. We - you will find in your inboxes the revised version of that report that takes into account all of the comments that were made this morning. I suspect we wouldn't have very much to say on this one anyway given that we've had some time this morning to discuss it. I think that takes us to the end of our list of motions. Yes (Marie), (Tatiana), good start with (Marie).

(Marie): Thanks. Very briefly I replied to your email (unintelligible) thanks because I have a concern that I understand (unintelligible) or so and I think Kenya does as well. It's about Number 7, Recommendation 7 because nobody in our discussions and/or on the Webinar thought that that was a good idea. And my

main worry is putting out something to the community that would give the impression that we think it would be a good idea when we don't. Thank you.

Heather Forrest: Thanks great. Good for me to specify. (Tatiana) let me jump in.

(Tatiana): Yes I share the same concern and I just would like to know which version of the report we are going to (unintelligible) with this concern or with like changes so the removed one because it didn't - we didn't have time to express it this morning clearly but it's on the mailing list so yes thanks.

Heather Forrest: So there are only very minor amendments in the items that we discussed this morning that went out to that republished version. What I would do is encourage you to read through the introductory section which clearly sets out that seven, eight and ten are pulled out and they're parked for a subsequent discussion effort? That's seven, eight, ten and the minority statements received by Phil and (Petter) are removed from the voting. So we are at this time only voting on one through six, eight and nine and then 11 onwards yes? Make sure that that's crystal clear yes because we did take care in the front of the report to identify that. We'll make sure that that's very much a part of the record on Wednesday as well. One hundred percent of the reason why we haven't discussed those is we've only focused in these last few weeks on the ones within principal support. And it is indeed the case that seven, eight and ten did not have any principal support.

Yes great. Okay with that council colleagues may I ask you please to consolidate your things to make space at the table, remove your bags from chairs and so on makes colleagues from the board. Would the community please remain seated, GNSO Council hop up to the lunch buffet, grab a plate, return to your seats and once everyone's settled at the table we'll get started with our discussion. We can stop the recording for now. We'll resume it when we reconvene with the board. Thank you.

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